

### **REMARKS**

The Examiner's action and the rejection of claim 1 under 35 USC 112, first paragraph have been carefully considered. The Examiner takes the position that there is inadequate support for the recital in claim 1 that the program listing comprises a reference to the entitlement management message. Although applicant believes that there is adequate support at page 3 of the specification for this recital, applicant also believes that the invention is more accurately described by amending claim 1 to delete "a reference to." As amended, claim 1 now recites that the program listing comprises date and time of broadcast as well as the entitlement management message responsive to the authorization of the impulse purchase program. The amended language of claim 1 is fully supported in the specification. The Examiner's attention is invited to page 3, lines 255-28 and to Figure 3 referred to therein which clearly states that the stream SI which forms the program listing comprises the date D, time T and description of the transmission Des, as well as the entitlement message Msg. The Examiner's attention is also invited to page 2, lines 17-19 of the specification wherein it is disclosed that one of the objects of the invention, reducing the cycle time before an impulse purchase is confirmed by the system, is achieved by including the EMM specific to the impulse purchase with the data tied to the presentation of the program listing. It is respectfully urged that in view of this amendment and the disclosure in the specification, the rejection under 35 USC 112, first paragraph should be reconsidered and withdrawn.

Remaining claims 1-3 now stand rejected as unpatentable over Tamer et al (U.S. Patent No. 6,671,881) in view of Young (U.S. 2003/0159147 A1) and further in view of Deiss (U.S. Patent No. 5,521,979) under 35 USC 103(a). As currently amended, claim 1 now recites a system for selecting and confirming an impulse purchase for pay TV including a display device for presenting a program listing to the user, means for selection by the user of a program from the listing with the choice being confirmed in the system by an EMM specific to the selection, the EMM comprising conditions for authorizing viewing of the selected program and for canceling such authorization, the program listing comprising the EMM responsive to the authorization of the impulse purchased program. The system also includes a security module and means to transfer the EMM specific to the impulse purchase

to the security module when the user selects the impulse purchased program and, if the conditions for authorizing viewing of the program selected by the user are met, recording the impulse purchase and granting access to the purchased program.

The Examiner primarily relies upon Tamer et al for its teaching of a system for selecting and confirming an impulse purchase for pay TV. However, the Tamer system is intended to provide a method and apparatus whereby entitlement data is layered to provide denial of entitlements to receive program material, e.g., broadcast black outs in local regions, on short notice, not to solve the problem of slow cycle time before a subscriber's impulse purchase is confirmed by the system. See, Tamer at column 1, lines 51-54. In connection with the Tamer system, the Examiner correctly states that Tamer et al fails to disclose a display device, and cites Young for its teaching of a display device for presenting a listing of programs. The Examiner also correctly states that neither Tamer et al nor Young teach a reference in the program listing to the EMM responsive to the authorization of the impulse purchased program. To provide this teaching in an allegedly analogous art, the Examiner cites Deiss, stating that Deiss at column 4, line 56 to column 5, line 14 teaches a reference in the program listing to the EMM responsive to the authorization of the impulse purchase program.

In fact, Tamer is even more seriously deficient than the Examiner suggests in that, when carefully read and understood, it fails to teach a "program listing" such as is claimed by applicant. There is no support in Tamer for the Examiner's assertion that Tamer teaches a program listing comprising date and time of broadcast of an impulse purchase program. Indeed, Tamer fails to teach the presentation to a user of a listing of programs. It follows that Deiss cannot teach a reference in the program listing of Tamer to the EMM responsive to the authorization of the impulse purchased program..

Tamer's disclosure is deceptive and confusing in its use of the term "program guide" at column 3, lines 30-59. In applicant's claims, the term "program listing" or "listing of programs" refers to a textual descriptor of the content of the channels, including such information as date D, time T and description of the transmission Des. See, Figure 3 and page 3, lines 14-18 and 25-28. According to the claimed invention, the program listing also includes an entitlement management message EMM which is specific to the impulse

purchase. See, page 3, lines 25-29. By contrast, Tamer's "program guide" is a term expressly defined within Tamer and is itself a program consisting of data which interrelates program signal components through SCIDs, and may include information relating to, for example, subscriber entitlements. See, Tamer at column 3, lines 26-35. Tamer's program guide is a descriptor of the content of the various data sub-streams (SCID) for each program (channel), such as video, audio 1, audio 2, data. See, Tamer at column 3, lines 35-37. This listing is necessary to extract the sub-stream of the desired program (channel). This is why Tamer's program guide is assigned a fixed SCID (see, Tamer at column 3, lines 37-38) so that the receiver knows where to seek the information necessary to filter the data related to a specific program (channel). In the portion of Tamer cited by the Examiner, column 3, lines 30-59, Tamer describes that the ECM and EMM are located on a sub-stream indicated in the program guide, i.e., in the sub-stream descriptor list.

Thus, when Tamer refers to a "program guide" he is referring to a completely different element or component than the electronic program listing which applicant recites as a program listing in its claims. Accordingly, Tamer does not disclose a program listing which is a textual descriptor of the content of the channels, including such information as date, time and description of the transmission, as is taught and recited by applicant, and does not disclose that such a program listing includes an EMM specific to the impulse purchase.

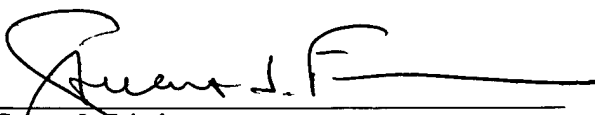
Deiss discloses a method and system for processing packets of program component data from a packet video signal and extracting corresponding payloads of different program signal components while using a common transport buffer memory (column 1, lines 4-8). The method and system of Deiss have nothing whatever to do with the claimed subject matter of the present invention. Moreover, the portion of Deiss relied upon by the Examiner, column 4, line 56 to column 5, line 14, does not, when carefully read and understood, disclose an electronic program listing, such as is recited by applicant in its claims, including an EMM responsive to the authorization of the impulse purchase. This is so at least because the "program guide" referred to in Deiss is identical to the program guide referred to in Tamer. Compare Tamer at column 3, lines 26-38 with Deiss at column 3, lines 38-50. Thus, like Tamer, when Deiss refers to a "program guide" he is referring to a completely different element or component than the electronic program listing which applicant recites as a

program listing in its claims. Accordingly, Deiss does not disclose a program listing which is a textual descriptor of the content of the channels, including such information as date, time and description of the transmission, as is taught and recited by applicant and, therefore, cannot and does not disclose that such a program listing includes an EMM specific to the impulse purchase.

Accordingly, Tamer is deficient as a primary reference not only because it fails to disclose a display device for presentation to a user a listing of programs but also because it fails to disclose a program listing such as is claimed by applicant as well as a program listing which includes an EMM responsive to the authorization of the impulse purchase in order to reduce the cycle time for a subscriber awaiting confirmation of an impulse purchase. It, therefore, would not have been obvious, contrary to the Examiner's assertion, to modify Tamer by including a system that allows available programs to be viewed on a display, as described by Young. It also would not have been obvious, contrary to the Examiner's assertion, to modify Tamer or the combination of Tamer and Young to include a program listing, as claimed by applicant, which includes an EMM responsive to the authorization of the impulse purchase. This is so at least because Deiss, like Tamer, as hereinbefore discussed, does not disclose a program listing such as is claimed by applicant as well as a program listing which includes an EMM responsive to the authorization of the impulse purchase.

In view of the foregoing, it is submitted that claim 1 recites patentable subject matter not disclosed or suggested by the art of record. Accordingly, the present application is in condition for allowance and a Notice of Allowance directed to remaining claims 1-3 is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, the Examiner is invited to telephone the undersigned attorney to expedite the prosecution.

Respectfully submitted,

By:   
Stuart J. Friedman  
6

Docket No. 740123-2  
Serial No. 10/019,518

Registration No. 24,312

28930 Ridge Road  
Mt. Airy, MD 21771  
Telephone: (301) 829-1003  
Facsimile: (301) 829-4107  
e-mail: [sfriedman@hughes.net](mailto:sfriedman@hughes.net)